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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,469	01/19/2001	Robert Charles Hartman	ESFT-001/00US	1070

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EXAMINER

DONAGHUE, LARRY D

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/766,469

Applicant(s)

HARTMAN ET AL.

Examiner

Larry D Donaghue

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 December 2004.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-28 is/are pending in the application.  
4a) Of the above claim(s) 28 is/are withdrawn from consideration.  
5) ☒ Claim(s) 10 is/are allowed.  
6) ☒ Claim(s) 11-15 and 19-27 is/are rejected.  
7) ☒ Claim(s) 16-18 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

Art Unit: 2154

1. Claims 10-28 are presented for examination.
2. Applicant's election without traverse of restriction in the reply filed on 12/30/2004 is acknowledged.
3. Claim 28 is withdrawn from further consideration.
4. Claim 10 is allowed.
5. Claims 16-18 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. The prior art of record failed to disclose the application management server as an intermediary between the client and the application service provider.
7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 11- 15 ,19-22 and 25-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Cheng et al. (6,457,076).

Cheng et al. taught the invention (claim 11) as claimed including method for managing software applications, the method comprising: storing, at a subscription management server, a list of available software applications available from a plurality of application service providers; storing an indication of which software application corresponds to which of the plurality of application service providers; receiving, at the subscription management server (col. 10, lines 25-54), a request to view at least a portion of the available software applications; initiating, from the subscription management server, display of a list that includes at least a portion of the available software applications; receiving, at the subscription management server, a request to subscribe to one of the available software applications (col. 11, line 55 – col. 12, line 24) ; identifying, at the subscription management server, which application service provider corresponds to the requested software application; and providing access to the requested software application (col. 10, lines 25-55).

Art Unit: 2154

9. As to claim 12, Cheng et al. taught providing access to the requested software application comprises: initiating, at the subscription management server, a subscription sequence with the application service provider for the requested software application (col. 3, line 65 – col. 4, line 7).

10. As to claim 13, Cheng et al. taught obtaining access to the requested software application comprises: initiating a download sequence from the identified application service provider (col. 3, line 65 - col. 4, line 7).

11. As to claim 14, Cheng et al. taught obtaining access to the requested software application comprises: initiating, at the subscription management server, a download sequence from the identified application service provider (col. 3, line 65 - col. 4, line 7).

12. As to claim 15, Cheng et al. taught : storing, at the subscription management server, a list of software applications to which access has been provided (col. 10, lines 26-55).

As to claim 19, Cheng et al. taught method for managing software applications, the method comprising: storing a list of available software applications and the corresponding application service providers (col. 10, lines 26-55); receiving a request originated by a user to view at least a portion of the available software applications (col. 11, line 55 – col., 12, line 24); initiating the display of a list that includes at least a portion of the available software applications (col. 11, line 55 – col., 12, line 24); receiving a request to subscribe to one of the available software applications (col. 10, lines 25-55); identifying which application service provider corresponds to the requested software application; and providing access to the requested software application (col. 10, lines 25-55).

As to claim 20, Cheng et al. taught providing access to the requested software application comprises:  
initiating a subscription sequence with the application service provider for the requested software application (col. 3, line 65 – col. 4, line 7)..

As to claim 21, Cheng et al. taught providing access to the requested software comprises: initiating a download sequence from the identified application service provider (col. 3, line 65 – col. 4, line 7).

As to claim 22, Cheng et al. taught storing a list of software applications to which access has been provided (col. 10, lines 26-55)

As to claim 25, Cheng et al. taught receiving a request to purchase one of the available software applications (col. 3, line 65 – col. 4, line 7) .

As to claim 26, Cheng et al. taught providing access to the requested software application comprises: receiving the software application for local installation (col. 3, line 65 – col. 4, line 7).

Art Unit: 2154

As to claim 27, Cheng et al. taught receiving access to the requested software (col. 8, line 55-61).

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng et al. (6,457,076).

As to claim 23, Cheng et al did not expressly teach storing the number of licenses purchased for at least one software application included in the list of software applications to which access has been provided, Cheng et al. taught a single client down loading to multiple target computers (col. 5, lines 1-7), therefore it would be obvious that there is a need to know the number of license issued to each client.

As to claim 24, Cheng et al. did not expressly teach receiving a request to license one of the available software applications, however Chen et al. taught purchasing a software application, purchasing software grant the purchaser to a license.

15.

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Conner et al. 6,816,882

Ciarlante et al. 6,532,488

Wiecha 5,870,717

Joesph et al. 6,606,603

Sears et al. US2002/002657

17. Applicant's arguments with respect to claims 11-27 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 2154

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Larry D. Donaghue whose telephone number is 571-272-3962. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LARRY D. DONAGHUE  
PRIMARY EXAMINER

